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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/060,712 | 01/29/2002 | Bartley K. Andre | APL1P234C1/P2426USC1 | 8995 |
| 22434 | 7590 | 06/24/2005 | EXAMINER | |
| BEYER WEAVER & THOMAS LLP P.O. BOX 70250 OAKLAND, CA 94612-0250 | | | LESPERANCE, JEAN E | |
| | | | ART UNIT | PAPER NUMBER |

2674

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/060,712

Applicant(s)

ANDRE ET AL.

Examiner

Jean E Lesperance

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-22,25-28,30-34,36,37,39 and 42-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-22,25-28,30-34,36,37,39 and 42-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>4/7/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed April 7, 2005 is entered and claim 20-22, 25-28, 30-34, 36, 37, 39 and 42-47 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20-22, 25-28, 30-34, 36, 37, 39, and 42-45 are rejected under 35 USC 102 (b) as being unpatentable over US Patent # 5,841,426 ("Dodson et al.").

As per claim 20, Dodson et al. teach an input device (10) comprising a base member Fig.1 (12); and a top surface Fig.1 (26) corresponding to an integral top member cooperating with the base member to form a housing of the input device that encases internal components of the input device, the integral top member moving relative to the base member to provide a clicking action, the integral top member being movably coupled to the base member, the top surface 26 of figure 1 inherently has two positions, a position when it is at rest away from the base member (no action is needed) and a position when a foot is placed on the top surface 26 for clicking action and cursor control corresponding to the integral top member being capable of moving between a

first position, placing the integral top member away from the base member and a second position, placing the integral top member towards the base member.

As per claim 21, Dodson et al. teach a signal generator Fig.1 (14) corresponding to the internal components include electronics associated with moving a cursor on a display.

As per claim 22, Dodson et al. teach a base Fig.1 (12) corresponding to wherein the base member is configured to make moving contact with a surface.

As per claim 25, Dodson et al. teach a platform Fig.1 (18) uses to place the operator foot and the platform 18 will make contact with switches 32 and 38 corresponding to wherein the clicking action is implemented by moving the integral top member to the second position.

As per claim 26, Dodson et al. teach a biasing a ball and socket joint may be provided with a spring for urging base 18 into a predetermined position relative to the base 12 (column 3, lines 50-52) corresponding to a spring pad for biasing the integral top member in the first position.

As per claim 27, Dodson et al. teach a top surface 26 which inclined when base 12 is supported on a horizontal surface corresponding wherein the integral top member is pivotally coupled to the base member and wherein the integral top member includes a pair of pivots Fig.1 (32 and 38), and wherein the base member includes a pair of snap mechanisms that mate with the pair of pivots.

As per claim 28, Dodson et al. teach a top surface 26 which inclined when base 12 is supported on a horizontal surface corresponding wherein the integral top member

is pivotally coupled to the base member and wherein the integral top member includes a pair of pivots Fig.1 (32 and 38), and wherein the base member includes a pair of snap mechanisms that mate with the pair of pivots.

As per claim 30, Dodson et al. teach switches Fig.1 (32 and 38) corresponding to wherein an electronic switch is coupled to the base member, and wherein the integral top member includes an elongated member for engaging the electronic switch.

As per claim 31, Dodson et al. teach a top member Fig.1 (26) corresponding to wherein the integral top member has no separate mechanical buttons disposed thereon.

As per claim 32, Dodson et al. teach a base member Fig.1 (12) corresponding to a bottom member configured to make moving contact with a surface; a top surface Fig.1 (26) corresponding to a top member mechanically coupled with the base member to form the mouse housing and to encase said mouse (electronics Fig.3), the top surface 26 of figure 1 inherently has two positions, a position when it is at rest away from the base member (no action is needed) and a position when a foot is placed on the top surface 26 for clicking action and cursor control corresponding to the top member defining the entire top surface of the mouse housing, the top member moving relative to the bottom member between a first position, placing the top member away from the bottom member and a second position, placing the top member towards the bottom member, so as to implement a clicking action, the entire top member serving as a movable button for implementing the clicking action; and switches Fig.1 (32 and 38) corresponding to an electronic switch disposed inside the mouse housing, the electronic switch being activated by said clicking action so as to perform an onscreen action.

As per claim 33, Dodson et al. teach a signal generator Fig.1 (14) corresponding to a mechanism for generating cursor control signals, the mechanism being carried by the bottom member.

As per claim 34, Dodson et al. teach a ball Fig.1 (16) corresponding to wherein the mechanism is a trackball or optical electronics.

As per claim 36, Dodson et al. teach a base member Fig.1 (12); and a top surface Fig.1 (26) corresponding to a top member cooperating with the base member to form a housing of the input device that substantially (figure 3) encloses internal components of the input device, a top surface Fig.1 (26) corresponding to the top member defining the entire top surface of the housing, the top member moving relative to the base member to provide a clicking action, the entire top member serving as a button for actuating an internal electronic switch (switches 32 and 38) configured to register the clicking action as an input to the electronics of the input device.

As per claim 37, Dodson et al. teach a top surface Fig.1 (26) corresponding to wherein the top member is a single piece having no separate mechanical buttons disposed thereon.

As per claim 39, Dodson et al. teach a top surface Fig.1 (26) corresponding to wherein the integral top member forms the entire top portion of the housing.

As per claim 42, Dodson et al. teach a base member configured to make moving contact with a surface; an integral top member mechanically coupled to the base member to encase the electronics, the integral top member and the base member being coupled and engaged in a manner that allows the integral top member to serve as a

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button for activating an internal electronic switch to register palm clicking as an input to the electronics.

As for claim 43, Dodson et al. teach a platform located on said top side of said base, said platform adapted to cooperate with and support a user's foot, said platform engaged with a pivot means for pivotal movement with respect to said base (column 5, lines 31-35).

As for claim 44, Dodson et al. teach a foot-operated mouse for controlling a computer, providing similar functions as a conventional hand operated mouse.

As for claim 45, Dodson et al. teach a foot-operated mouse for controlling a computer, providing similar functions as a conventional hand operated mouse.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent # 5,841,426 ("Dodson et al.") in view of US Patent # 5,661,505 ("Livits").

As for claim 46, Dodson et al. teach a foot operated mouse (column 3, lines 25-28) but fails to suggest a trackball mechanism. However, Livits teaches a trackball mechanism (column 1, lines 17). It would have been obvious to a person of ordinary skill in the art to utilize a trackball as taught by Livits in the foot operated mouse

disclosed by Dodson et al. because this would provide a rocking keyboard incorporate a trackball which can itself serve as a trackball for inputting data to a computer.

As for claim 47, Livits teaches an optical sensor Fig.2C (106a).

Response to Amendment

4. Applicant's arguments filed April 7, 2005 have been fully considered but they are not persuasive. Applicant argued that Dodson fails to teach or suggest a platform and a base that encases the internal components of the controller. Examiner disagrees with the applicant because controller 90 of fig.3 includes the internal components of the foot-operated mouse. Does not Fig.3, which a controller looks like a normal mouse, which can grasp and manipulated by the user's hand. I think so. The foot-operated mouse is just like any other mouse. The mouse controller 90 of fig.3 can also be hand held and operated by the hand since it is mouse just any other mouse. Therefore, the rejection is maintained.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jean Lesperance whose telephone number is (571) 272-7692. The examiner can normally be reached on from Monday to Friday between 10:00AM and 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard, can be reached on (571) 272-7603.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231


or faxed to:

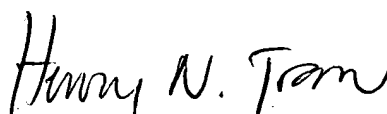
(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Jean Lesperance


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**HENRY N. TRAN
PRIMARY EXAMINER**